

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)	
)	DEFENDANT ANTON JOSEPH
Plaintiff,)	LAZZARO'S MOTION FOR LEAVE TO
)	REINSTATE AND AMEND HIS MOTION
vs.)	FOR SELECTIVE/VINDICTIVE
)	PROSECUTION
Anton Joseph Lazzaro,)	
)	Crim. No. 21-173 (PJS/DTS)
Defendant.)	

Defendant Anton Joseph Lazzaro, through his counsel, Daniel L. Gerdtts, Esq., respectfully moves the Court for leave to reinstate and amend his previously filed motion to dismiss for selective prosecution.

As the Court is aware, Mr. Lazzaro timely filed a motion to dismiss for selective prosecution. R. Doc. 133. Through his former counsel, that motion was later withdrawn. R. Doc. No. 187. As counsel expressly noted in the notice of withdrawal, it was withdrawn over the personal objection of Defendant Lazzaro.

Federal Rule of Criminal Procedure 12(B)(3)(A)(iv) requires that a motion for relief based on selective or vindictive prosecution must be brought by pretrial motion. The withdrawal of that motion by former counsel would appear to constitute a waiver of the issue that would prevent Defendant Lazzaro from raising it for further review on

appeal or by a motion for collateral relief. Mr. Lazzaro therefore respectfully requests leave to reinstate and amend the motion for consideration by the court.

Undersigned counsel participated in a telephonic meet-and-confer with Government counsel regarding the instant motion. Government counsel informed the undersigned that the United States opposes the motion.

Dated: 20 June 2022

Respectfully submitted,

DANIEL L. GERDTS, LAWYER

s/ Daniel L. Gerdtz

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